

THE KISUMU COUNTY HEALTH ACT, 2019

No. 5 of 2019

Date of Assent: 11th December, 2019

Date of Commencement: 20th December, 2019

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1— Short title and commencement.
- 2— Interpretation.
- 3— Objects and purposes of the Act.

PART II— COUNTY HEALTH SYSTEMS

- 4— County health system.
- 5— Functions of county health department.

PART III— COUNTY HEALTH FACILITIES

- 6— County health facilities.
- 7— Duties of County Government.
- 8— Referral mechanisms.
- 9— Cemeteries, funeral parlours and crematoria.
- 10—Categorisation of facilities.

PART IV— ACCESS TO HEALTH SERVICES

- 11—Primary health care.
- 12—Access to maternal and new born health care.
- 13—Measures to address special needs for adolescents and persons with disability.
- 14—Referral system.

PART V— PUBLIC HEALTH

- 15—Control of undertakings that sell food.
- 16—Refuse removal, dump and solid waste disposal.

PART VI— HEALTH FINANCING

- 17—Access to finance.

- 18—County health Fund.
- 19—Health facilities to operate accounts.
- 20—County health insurance scheme.
- 21—Fund administrator.
- 22—Capitalisation of Fund.
- 23—Fund expenditure.
- 24—Bank account.
- 25—Financial year.
- 26—Estimates of income and expenditure.
- 27—Accounts and audit.

**PART VII— HUMAN RESOURCES, TRAINING, RESEARCH
AND DATA MANAGEMENT**

- 28—Human resources.
- 29—Training of health care professionals.
- 30—Research and data management.

PART VIII— COMMUNITY HEALTH SERVICES

- 31—Community health services.
- 32—Community health volunteers.
- 33—Remuneration of community health volunteers.

PART IX— MISCELLANEOUS PROVISIONS

- 34—Regulations.

THE KISUMU COUNTY HEALTH ACT, 2019

AN ACT of the County Assembly of Kisumu to provide for regulation of health care service in the county, to provide for establishment of a health services fund, to provide for human resources and training, to provide for research in health and to promote attainment of health care service delivery and for connected and incidental purposes

ENACTED by the County Assembly of Kisumu as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kisumu County Health Act, 2019.

Short title

2. In this Act, unless the context otherwise requires—

Interpretation.

“accounting officer” means the Chief Officer responsible for County health and sanitation services;

“administrator” means a person designated under section 19(2) of this Act to administer the fund;

“city” means the city of Kisumu as defined under the Urban Areas and Cities Act, 2012 and shall comprise of all wards within the city;

“city health facilities ” refers to all health facilities of up to level four within the city;

“community health unit” means the frontline community health service delivery structure located within the county health system comprising of a cluster of villages;

“community" means the area for which a community health unit has been established pursuant to this Act;

“community health committee” means a community health committee established pursuant to this Act;

“community health worker” means a frontline public health worker, who is a trusted member or has an unusually close understanding of the community served;

“county department ” means the county department responsible for health;

“county health system” means the health system established under section 19(1) of the Health Act 2017;

“county health facility” means a facility designated as such by section 25 and the First Schedule of the Health Act;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities;

“Executive Committee Member” means the Executive Committee Member responsible for health;

“family planning” means the conscious effort by a person to plan for and attain the person’s desired number of children and to regulate the spacing and timing of the births of the children with or without the use of contraceptive commodities;

“Fund” means the health fund established under part VI of this Act;

“healthcare provider” means any person or institution that has been authorised to deliver health care services;

“healthcare professional” has the meaning assigned to it in section 2 of the Health Act 2017; and

“primary healthcare” means essential healthcare that is based on scientifically sound and socially accepted methods and technology which make universal health care accessible to all individuals.

3. The objects and purpose of this Act are to—

- (a) provide a framework for service delivery of health care at the county level;
- (b) establish a county health system that provides holistic health care services: county health facilities, pharmacies, preventive and promotive health services including community health services, provision and maintenance of health care infrastructure; including buildings and equipment and county ambulance services;
- (c) establish a fund to ring fence finances designated

Objects and purposes of Act.

for healthcare service delivery to attain universal health coverage;

- (d) provide for human resources, training and research for health; and
- (e) ensure access to quality and comprehensive health care for residents of the county.

PART II—COUNTY HEALTH SYSTEM

4. (1) There shall be established a county health system which shall comprise—

County health system.

- (a) a county executive department responsible for health, which shall be in line with the health policy guidelines for setting up county health system and shall in all matters, be answerable to the Governor and the County Assembly subject to the provisions of the Constitution and or any other written law.
- (b) There shall be an established office of the County Director of health who shall—
 - (i) be a technical advisor on all matters of health in the County;
 - (ii) supervise all health services within the County;
 - (iii) promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within the County;
 - (iv) prepare and publish reports and statistical of other information relative to the public health within the County;
 - (v) report periodically to the County Chief Officer for health on all public health occurrences including disease outbreaks, disasters and any other health matters; and
 - (vi) perform any other duties as may be assigned by the appointing authority and any other written Law.
 - (vii) recruited through a competitive process in

conformity with the rules and regulations set from time to time by the County Public Service Board; and

(viii) be a medical practitioner registered by the Medical Practitioners and Dentists Board; be at least a holder of a masters' degree in public health, medicine or any other health related discipline; and have at least five years' experience in management of health services.

(c) In furtherance of the functions of the county department, there shall be—

(i) formed directorates of medical services; clinical, nursing; pharmaceutical services; public health; and administrative services; and health financing and others as shall be determined by the county executive committee member;

(ii) appointment of the head of directorates, will be competitive, and as per the respective schemes of service set and with clearance from professional regulatory bodies.

(2) There shall be established—

(a) Kisumu county health management team comprising of the chief officers responsible for health and sanitation, directors, heads of the directorates and program officers;

(b) sub county health management teams comprising the medical officers of health, the sub county health administrator, sub county public health nurse, sub county clinical officer, the sub county public health officer and the program officers;

(c) health facility management teams comprising the chief executive officers, the hospital medical superintendents, the persons in-charge, departmental heads and unit heads depending on the size, level and complexity needs; and

(d) hospital management boards for hospitals and health facilities and management committees for health centres and dispensaries.

2019

Kisumu County Health

No.5

(3) The hospital management boards and the health facility management committees shall comprise a minimum of seven and maximum of nine persons freely and fairly elected by the catchment population of such hospitals and health facilities; and shall comprise a representation of women, youth, persons with disability, a minority, the head of the facility, a person knowledgeable on matters of finance and management, a representative of the county governance, a representative of member of county assembly of the locality and a representative of the provincial administration of the locality.

5. The county department in furtherance to the functions assigned to it by the Constitution and any written law shall be responsible for—

Functions of county department for health.

- (a) developing county health and sanitation laws, policies and administrative procedures;
- (b) managing and equipping health facilities for purposes of delivery of services and other related services;
- (c) developing guidelines to facilitate equitable access to county health services by the vulnerable and marginalised groups;
- (d) maintaining an electronic county health database which provides among others for administration of health information, collection and use of information and health service delivery through electronic platforms;
- (e) responding to environmental health disasters and other emergencies;
- (f) managing environmental health and safety, sanitation and accordance to the disasters and emergencies
- (g) responding to and managing health emergencies including disasters, epidemic outbreaks and accidents.

PART III—COUNTY HEALTH FACILITIES

6. The national and county governments shall ensure Public Health Facilities progressively ensure equitable

County health facilities.

distribution throughout the county of such publicly owned health institutions, including hospitals, health centres, pharmacies, clinics and laboratories, as are deemed necessary for the promotive, preventive and rehabilitative health services.

7. The county government in furtherance of the duties and functions assigned to it under the Fourth Schedule of the Constitution shall be responsible for—

Duties of county government.

- (a) implementing the national health and sanitation policies and standards as laid down by national government Ministry responsible for health;
- (b) service delivery, including the maintenance, financing and further development of those health services and institutions that have been devolved to it;
- (c) coordination of health and sanitation activities in order to ensure complementary inputs, avoid duplication and provide for cross-referral, where necessary to and from institutions in other counties;
- (d) facilitating registration, licensing and accreditation of Health and sanitation providers and health facilities respectively according to standards set nationally by the national government department responsible for health and relevant regulatory bodies;
- (e) designation of county referral hospitals according to criteria agreed upon by the intergovernmental health coordinating mechanism;
- (f) developing and implementing remuneration policies, in consultation with the Salaries and Remuneration Commission, such policies as may be necessary to guarantee the staffing of the public health service in marginal areas including taking into account equalization fund;
- (g) procuring and managing health and sanitation supplies;
- (h) maintaining standards of environmental health and sanitation as laid down in applicable laws

and policies

- (i) providing access and practical support for monitoring standards compliance undertaken within the county by the national government Ministry responsible for health, the Authority and professional regulatory bodies established under any written law;
- (j) providing access and practical support for technical assistance, monitoring and evaluation, research for health by the national and county government department responsible for health;
- (k) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law; and
- (l) making due provision and develop criteria to compensate health care facilities for debts arising

8. The county government shall develop a referral system for patients within the county.

Referral mechanisms

9. (1) The county department responsible for health shall develop guidelines for—

Cemeteries, funeral parlours and cermatoria

- (a) designation of cemeteries, parlours and crematoria; and
- (b) registration, licensing and inspections of funeral parlours and crematoria.

10. (1) The county department for health shall in line with the policies and any written law categorise health facilities in the county into the levels of care.

Categorisation of county facilities.

(2) The department may upgrade or downgrade any health facility in the county.

PART IV—ACCESS TO HEALTH CARE SERVICES

11. The county department shall ensure equitable access to comprehensive health and sanitation services to include among others—

Primary health care

- (a) primary health care including maternal and health care services;
- (b) emergency treatment;

- (c) sexual and reproductive health services; and
- (d) curative, preventive and promotive health services for all the residence of the county.

12. The county department shall provide access to maternal and new-born health care services and information including nutrition support from pre-conception to post-delivery care by ensuring the availability of—

Access to maternal and new-born health care.

- (a) standard care and referral system;
- (b) essential supplies and equipment;
- (c) HIV prevention, detection and treatment services;
- (d) contraception and family planning services;
- (e) nutrition services and education; and
- (f) other related services.

13. The county department shall provide supportive infrastructure, equipment, educational material and other services targeting adolescents and persons with disability including—

Measures to address special needs for adolescents and persons with disability.

- (a) health personnel trained to communicate with adolescents;
- (b) trained health personnel able to communicate with persons with disabilities through either sign, tactile languages and Braille in health facilities; and
- (c) on regular basis support learning, training and continuous medical education according to the relevance and advances in art and science of medical profession.

14. (1) The county department shall establish a referral system that shall—

Referral system.

- (a) set standards for ambulance service;
 - (b) develop guidelines on the specifications of ambulances in the county; and
 - (c) purchase or lease ambulances or enter into contracts to lease ambulance services.
- (2) The department shall take all necessary steps to

progressively ensure availability and accessibility of high quality, cost effective referral systems including ambulance services.

PART V—PUBLIC HEALTH

15. (1) The county department responsible for health shall put in place measures and preventive health interventions as envisaged in The Constitution of Kenya 2010 including; undertakings to regulate selling, distribution or supply of food and food items, drugs and chemical substances through inspections, licensing, enforcement of standards and guidelines on food handling.

Control of undertakings that sell food.

16. The county department responsible for health and Sanitation shall devise measures including but not limited to advisory and collaborative roles on refuse removal, refuse dump and solid waste disposal and response to biohazard safety through—

Refuse removal, dump and solid waste disposal.

- (a) maintaining standards of environmental health and sanitation services to ensure refuse and nuisance removal, provision of proper mechanisms for refuse dumping and solid waste disposal including cleansing;
- (b) prevention and suppression of infectious diseases through early detection, response and surveillance of disease outbreaks, vector and vermin control, malaria prevention and control, emergencies and other events of public health concern;
- (c) ensure uptake of health and sanitation services and interventions in the community, temporary camps, rescue camps and all learning institutions, outdoor advertising and enforce relevant laws and regulations;
- (d) regulate and license cemeteries, funeral parlours and crematoria;
- (e) controlling of air pollution, noise pollution, other public health nuisances and outdoor advertising; and
- (f) develop control measures to prevent or remedy dangers to health from unsuitable dwellings

PART VI—HEALTH FINANCING

17. (1) The county department for health shall ensure equitable access to health finances, to reduce out of pocket expenses, by all residents of the county.

Access to finance.

(2) The county government may collaborate and form partnerships with the National Health Insurance Fund and private insurance providers.

18. (1) There shall be established a fund to be known as the Kisumu County Health Sector Fund.

County health fund.

(2) The County Executive Committee member for finance in pursuance to the Public Finance Management Act 2012 shall designate the director responsible for healthcare financing as the administrator of the Health Fund.

(3) The administrator shall ensure that the earnings of, or accrual to the fund are retained, ring-fenced and fully earmarked for health activities only.

(4) The administrator shall ensure that money held in the fund including accruals referred to in subsection (3) is spent only for the purposes for which the fund is established.

19. (1) The health facility shall with the approval of the Executive Committee Member of finance operate a bank account in its own name.

Health facilities to operate accounts.

(2) The executive committee for hospital boards, shall with the approval of the executive committee member for finance, designate three mandatory signatories to these bank accounts.

(3) The hospital accountant shall obtain bank statement on a monthly basis and prepare bank reconciliation statements and submit the same to the committee.

(4) Each Health facility management Board/committee shall review and approve monthly bank reconciliation statement committee shall review and approve submits the same to the county health management service committee.

(5) The health facilities' management boards/committees shall ensure that basic books of

2019*Kisumu County Health***No.5**

accounts and financial records of the hospital are maintained by ensuring that—

- (a) the health facility's financial management system is up to date and conforms to the required accounting standards; and
- (b) the hospital financial management system has the capacity to capture useful information and produce required reports for monitoring and management decision making.

(6) The health facilities' management boards or committees shall ensure that certified financial reports are prepared and submitted to the Boards committees in good time for onward transmission to the auditor.

20. There shall be established by an Act of County Assembly a mandatory County Health Insurance Scheme.

County health insurance scheme.

21. (1) The County Executive Committee Member for finance shall appoint the committee to administer the fund which shall comprise of—

Fund administrator.

- (a) chief officer of finance;
- (b) chief officer of health;
- (c) county director of health;
- (d) two members appointed by the County Executive Committee Member for health;
- (e) sub-county medical officer of health;
- (f) medical superintendent; and
- (g) two ex-officio members appointed by the governor, whom one will be the chairperson.

(2) The County administrator for the health fund shall—

- (a) prepare accounts for the fund for each financial year;
- (b) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor General;
- (c) present financial statements to the county assembly.

22. The Fund shall consist of—Capitalisation of
the fund.

- (a) monies allocated and appropriated to the Fund from the County Revenue Fund, from time to time, by the County Assembly;
- (b) any grants, gifts, donations, loans or other endowments given to the Fund;
- (c) monies received as user charges;
- (d) income generated from the proceeds of services rendered;
- (e) monies that may accrue to the Fund in the course of the exercise or performance of the functions of the health department; and
- (f) monies from any other lawful source accruing to the Fund.

23. (1) There shall be paid from the fund—

Fund expenditure.

- (a) money for medical supplies and equipping of health facilities in the county;
- (b) money to support capacity building in the management of health facilities; and
- (c) money to improve the quality of health care services in the health facilities;
- (d) money to support preventive and promotive health services in the county;
- (e) operational expenses incurred in the administration of the fund and maintenance for the facilities; and
- (f) any other activity incidental and connected to effective and efficient healthcare service delivery.

24. (1) The administrator shall open a bank account of the Health Fund in commercial bank with the approval of the Executive Committee Member for Finance.

Bank accounts.

(2) The health facilities', with the approval of the Executive committee member for finance, shall operate facilities' bank accounts whose signatories shall be executives of the boards and or committees as approved by the Fund administrator.

2019

Kisumu County Health

No.5

(3) For purposes of section 23 (1)(c) of this Act, sub county public health offices shall, with the approval of the fund administrator, operate public health and sanitation services accounts whose signatories shall be –

- (a) sub county medical officer of health;
- (b) sub county public health officer;
- (c) sub county public health nurse; and
- (d) sub county health administrator.

(4) Remittances from Public health user fees, levies and charges shall be shared between the sub county and the directorate of public health and sanitation at seventy five per cent and twenty five per cent respectively.

(5) Other activity funding to the account shall be administered as approved by the fund administrator for the purposes of public health and sanitation activities.

25. The financial year of the Fund shall be the period of twelve months beginning on the first day of July and ending on the thirtieth day of June in the following year.

Financial year.

26. (1) At least three months before the commencement of each financial year—

Estimates of income and expenditure.

- (a) the administrator shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year; and
- (b) the health boards and committees and sub county public health and sanitation offices shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Fund for the relevant financial year.

(3) The financial estimates referred to under subsection (1) shall—

- (a) differentiate between recurrent and disbursement expenditure; and
- (b) itemize every activity that the administrator intends to undertake in respect of the Fund in the

coming financial year under a separate vote head.

(4) The annual estimates shall be approved by the administrator before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for finance for tabling in the County Assembly for its approval.

(5) No expenditure shall be incurred by the administrator except in accordance with the annual estimates approved under subsection (4).

(6) Upon the approval of the estimates by the County Assembly, all monies appropriated for purposes of the Fund shall be paid into the relevant accounts established under section 22.

27. (1) The administrator shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund.

Accounts and
audit.

(2) Within a period of three months after the end of each financial year, the administrator shall submit to the Auditor-General the accounts prepared under subsection (1) in respect of that year together with a statement of—

- (a) the income and expenditure of all health facilities during that year;
- (b) the income and expenditure of the Fund; and
- (c) the assets and liabilities of the fund on the last day of that financial year.

(3) The annual accounts referred to under this section shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 299 of the Constitution and the Public Audit Act.

PART VII—HUMAN RESOURCES, TRAINING, RESEARCH AND DATA MANAGEMENT

28. (1) The county department responsible for health shall progressively ensure that the health facilities are adequately staffed and service provision at all levels of care is delivered by health professionals.

Human resources.

(2) The county department responsible for health will ensure the county has adequate and skilled human

2019

Kisumu County Health

No.5

resources to provide health care services.

29. (1) The county department responsible for Health shall undertake training for the health personnel for furtherance of their professional careers as well as filling skill gaps in provision of health services.

Training of health care professionals.

(2) The county department responsible for health shall undertake training needs assessment and training inventory for the purposes of for career progression in healthcare and health services.

(3) The county department for health shall put in place guidelines and systems on continuous training and development of health professionals.

30. (1) The county department responsible for health shall ensure accurate and updated data relating to among others vaccinations, health details of residents, indigents and vulnerable persons receiving support.

Research and data management.

(2) The county department responsible for health shall invest, in developing research for health, including but not limited to clinical trials and operational research and in improving and digitizing the health management information systems.

(3) The county department responsible for health shall set up monitoring and evaluation systems that track health indicators and related targets including those aimed at indigents and vulnerable groups.

PART VIII—COMMUNITY HEALTH SERVICES

31.(1) The department of health and sanitation shall establish community health services as guided by the national ministry of health community strategy and regulations of this Act where—

Community health services.

- (a) the community health unit shall comprise the villages of Kisumu County; and
- (b) the County Executive Committee Member for health with advice from county director of health may from time to time gazzete, restructure or merge the community health units within Kisumu County.

(2) For the purposes of this Act a community unit will

comprise of a village or villages with a population of five thousand to six thousand, or one thousand to one thousand two hundred households whichever is less.

(3) Each of the community health units shall be supervised by a community health extension worker who shall also offer technical support through training and coaching.

(4) There shall be a community health committee for each unit, consisting of nine to eleven members with selection, training, functions and term guided as per the national ministry of health community strategy and regulations of this Act.

32. (1) The community health services shall be executed by the community health workers, aged from eighteen and above from their respective villages who shall be recruited as per the national guidelines and deployed according to the regulations of this Act.

Community health volunteers.

(2) Community health volunteers shall be recruited as per the guidelines.

(3) Definition of the roles, obligation, tenure and training of the community health workers shall be guided by the national ministry of health community strategy and regulations of this Act.

(4) A special kitty shall be established from the county health fund to remunerate the community health volunteers.

33. (1) The community health volunteers shall be remunerated from a Fund created by county government.

Remuneration of community health volunteers.

(2) The rates of their remuneration and terms of the community health volunteers shall be in accordance to the regulations of this Act.

PART IX—MISCELLANEOUS PROVISIONS

34. The Executive Committee member for health may make regulations generally for the better carrying out of the provisions of this Act.

Regulations.